



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Larry K. Bomke

SYNOPSIS AS INTRODUCED:

755 ILCS 5/4-7

from Ch. 110 1/2, par. 4-7

Amends the Probate Act of 1975. Provides that the dissolution of marriage or the declaration of invalidity of marriage of the testator shall not revoke the legacy or interest or power of appointment given to a former spouse in a will, if the deceased ex-spouse has not remarried, and if the surviving ex-spouse proves that the deceased ex-spouse continued to intend the surviving ex-spouse to take under the terms of the will and continued to intend that the ex-spouse act as executor.

LRB093 20868 LCB 46813 b

1 AN ACT concerning probate.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing
5 Section 4-7 as follows:

6 (755 ILCS 5/4-7) (from Ch. 110 1/2, par. 4-7)

7 Sec. 4-7. Revocation - revival.†

8

9 (a) A will may be revoked only (1) by burning, cancelling,
10 tearing or obliterating it by the testator himself or by some
11 person in his presence and by his direction and consent, (2) by
12 the execution of a later will declaring the revocation, (3) by
13 a later will to the extent that it is inconsistent with the
14 prior will or (4) by the execution of an instrument declaring
15 the revocation and signed and attested in the manner prescribed
16 by this Article for the signing and attestation of a will.

17 (b) No will or any part thereof is revoked by any change in
18 the circumstances, condition or marital status of the testator,
19 except that dissolution of marriage or declaration of
20 invalidity of the marriage of the testator revokes every legacy
21 or interest or power of appointment given to or nomination to
22 fiduciary office of the testator's former spouse in a will
23 executed before the entry of the judgment of dissolution of
24 marriage or declaration of invalidity of marriage and the will
25 takes effect in the same manner as if the former spouse had
26 died before the testator with the following exception: if the
27 deceased ex-spouse has not remarried, the surviving ex-spouse
28 shall be given the opportunity to prove that the deceased
29 ex-spouse continued to intend that the surviving ex-spouse take
30 under the terms of the will and continued to intend the
31 ex-spouse act as executor.

32 (c) A will which is totally revoked in any manner is not

1 revived other than by its re-execution or by an instrument
2 declaring the revival and signed and attested in the manner
3 prescribed by this Article for the signing and attestation of a
4 will. If a will is partially revoked by an instrument which is
5 itself revoked, the revoked part of the will is revived and
6 takes effect as if there had been no revocation.

7 (Source: P.A. 81-230.)